

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 30 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Redevelopment of Spectrum to
Encourage Innovation in the Use of
New Telecommunications Technologies

ET Docket 92-9

TO: The Commission

COMMENTS OF AMERICAN PERSONAL COMMUNICATIONS
ON PETITIONS FOR RECONSIDERATION

American Personal Communications^{1/} ("APC") must oppose the petitions for reconsideration filed by the Utilities Telecommunications Council ("UTC") and the American Public Power Association because those petitions unjustifiably attempt to expand dramatically the number of microwave licensees that will be exempt from involuntary relocation under the Commission's transition plan.

The First Report & Order appropriately limited its exemption from involuntary relocation to "microwave operations licensed to the public safety and special emergency radio services."^{2/} From the outset, this exemption from involuntary relocation has been based on the perception that entities with legitimate public safety duties are a unique case. "We are particularly sensitive to the need to avoid any disruption of

^{1/} American PCS, L.P., d/b/a American Personal Communications, a partnership of American Personal Communications, Inc. and The Washington Post Company.

^{2/} Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, First Report & Order ("Report & Order"), 7 F.C.C. Rcd. 6886, 6891 (1992).

... and other public safety communications "3/ Not

involuntary relocation.^{5/} This wholesale expansion of the public safety exemption would alter the delicate balance that will permit the Commission's transition plan to foster the implementation of new technologies.

State and local government licensees will not, of course, be harmed one whit by being subject to the same procedures that will govern facilities licensed to utilities and petroleum companies. State and local government licensees, like private licensees, never will be required to relocate unless requested to do so by a new technologies licensee, with all costs of relocation met by the new licensee and with no relocation at all permitted unless they can operate reliably at higher frequencies. These procedures protect state and local government licensees fully and completely, just as they protect private licensees that utilize the 2 GHz band for analogous purposes.

Accordingly, the Commission should retain the original language in its rule exempting only licensees in the public safety and special emergency services from involuntary relocation.

* * *

UTC also attempts to litigate under the guise of reconsideration certain issues that now are subject to comment

^{5/} Marrangoni, Campbell, Serafini & McGowan, Creating New Technology Bands for Emerging Telecommunications Technology, p. 8 (Office of Engineering and Technology, OET/TS 92-1, January 1992).

under the Third Notice of Proposed Rule Making in this docket. In the Third Notice, the Commission has sought comment on the definition of "comparable facilities." The concept that replacement facilities must be "comparable" to the facilities being replaced encompasses UTC's concerns regarding whether incumbents can be relocated to common carrier systems as well as private microwave systems or to media other than fixed microwave stations. The "comparable facilities" concept also defines the extent to which incumbents will have a right to insist upon certain engineering characteristics in the planning of replacement facilities. None of these matters appropriately should be considered by the Commission on reconsideration because all are at issue under the Third Notice.

Respectfully submitted,

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